

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

ANDRICA CAGE, as Personal  
Representative of the ESTATE OF  
SAMUEL STERLING, (*deceased*),

Plaintiffs,

v.

BRIAN KEELY, in his individual capacity,  
and THE UNITED STATES OF AMERICA

Defendants,

No.: 1:25-cv-00089-HYJ-MV

Hon. Hala Y. Jarbou  
Chief United States District Judge

Hon. Maarten Varmaat  
United States Magistrate Judge

**DEFENDANT BRIAN KEELY’S MOTION TO DISMISS AND TO TAKE  
JUDICIAL NOTICE OF THIS COURT’S RECORDS**

**ORAL ARGUMENT REQUESTED**

COMES NOW, Defendant Brian Keely (“Deputized Federal Defendant”), in his individual capacity, who pursuant to Federal Rules of Civil Procedure, Rule 12(b)(1) and (6) moves the Court to enter a judgment dismissing Plaintiff’s complaint (ECF Doc. No. 1) with prejudice and for this court to take notice of its own records in *Michigan v. Keely*, No. 1:25-cr-115, 2025 WL 1513194 (W.D. Mich. May 28, 2025) under FRE 201(b)(2), namely that (1) Defendant Brian Keely of this matter was the defendant in *Michigan v. Keely*; (2) that the *Michigan v. Keely* matter

involved the events of April 17, 2024 and the death of Samuel Sterling -the same events *sub judice*; and (3) that, following a hearing, this Court dismissed this matter pursuant to the Supremacy Clause of the United States Constitution because Defendant Brian Keely was a federal officer acting at all times relevant to this case, was acting under federal officers at all times relevant to this case, was performing an act he was authorized to perform under federal law at all times relevant to this case, and in performing his federal duties, did no more than was reasonably necessary to fulfill his obligations as a federal officer.

The Court lacks subject matter jurisdiction over this matter as an action under 42 U.S.C. § 1983, as Deputized Federal Defendant was acting under color of *federal* law grounds for this motion, and even were the court to construe this matter as a *Bivens* complaint, the claim would fail as it presents *Bivens* in a “new context.” Further, in any event, Deputized Federal Defendant would be entitled to qualified immunity as the standard for granting Supremacy Clause Immunity is analogous to the analysis required for a grant of qualified immunity. See *Texas v. Kleinert*, 143 F.Supp.3d 551 (5<sup>th</sup> Cir. 2015) & *Kentucky v. Long*, 837 F.2d 727 (6<sup>th</sup> Cir. 1988) (Courts apply the “reasonable officer standard from *Graham v. Connor* when considering a grant of immunity under the Supremacy Clause.) For those reasons, as well as matters developed further in the attached brief, this complaint should be dismissed.

This 30th day of June, 2025.

*Respectfully submitted,*

s/ Lance J LoRusso

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**CERTIFICATE OF SERVICE**

I certify that I electronically filed the within and foregoing with the Clerk of  
Court using the CM/ECF system.

Respectfully submitted this 30<sup>th</sup> day of June, 2025.

s/ Lance J LoRusso  
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